

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/043/2018
(Present: A.S. Dasappan)
Dated: 24th September 2018

Appellant : Sri. Joseph C.A.
Cheethaparambil,
Vaduthala P.O.,
Ernakulam

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd., Central,
Ernakulam

ORDER

Background of the case:

The appellant is an industrial consumer having consumer number 12925 under the jurisdiction of Electrical Section, Vaduthala. The appellant approached the respondent for shifting an electric line passing through the north eastern corner of his property. Since no action was taken in the matter, the appellant filed a writ petition in W.P. (C) No.5889/2015 before the Hon. High Court of Kerala. The matter was referred to the Additional District Magistrate by the Hon. High Court. The Additional District Magistrate, in his order No. K.Dis/67018/2012MS dated 10-08-2015, dismissed the request of the appellant as having no merits, stating that the application for shifting of electric line to the adjacent pathway, which is outside of the property of the appellant is beyond the scope of Section 17 of the Indian Telegraph Act. Against this order of the District Collector the appellant filed WPC 18958/2016 before the Honourable High Court of Kerala and the Court vide judgment dated 20.6.2016 directed Additional District Magistrate to reconsider the matter and the same is under the consideration of Additional District Magistrate. Meanwhile the appellant approached the CGRF with the request for removal of the line drawn across his property between the posts MR 12/7 and GTW 27 and to take disciplinary action against the concerned officials of the KSEBL who cut and removed the trees without his permission. Hence this appeal is

against the order dated 26-06-2018 of CGRF, Ernakulam, in the OP 137/2017-18, dismissing the complaint due to lack of merits, filed before it.

Arguments of the appellant:

The appellant put forward the following contentions in his appeal petition.

A petition had been filed by the appellant in CGRF, Central Region against the trespassing and drawing of electric line through his property without consent. The Forum has not considered his arguments and evidences presented and rejected the petition. The Forum accepted the affidavit dated 16-03-2018 of KSEB that GTW 27/1 numbered post is towards his house against the statement of the appellant that the post number is MR 12/7.

Besides, earlier the appellant approached the Hon'ble High Court of Kerala in WP(C) 5889 of 2015(1) against the drawal of line through another portion of his property and ordered to remove the line within two months. But KSEB official did not remove the line and hence he approached Ernakulam District Collector. The District Collector ordered to remove the line within 15 days, but implemented the order by drawing another line through the property.

Moreover, the appellant has remitted Rs. 2,000/- in ANERT in the last year for Solar On grid / Off grid programme of Kerala Government and applied in KSEB for permission, but they have not taken any action.

The Forum is trying to interpret the subject as a dispute between the appellant and KSEB pertaining to the pathway and stated in the order that cases are pending before various courts. But the Forum could not refer the name of Court or case number. These are the evidences for the partial attitude of the Forum. Trial is going on in a case filed by the appellant in Ernakulam CJM Court (1) in connection with the demolishing of wall by the neighbour.

Arguments of the respondent:

Sri C A Joseph, Cheethaparambil House, Vaduthala P.O. has submitted a complaint before CGRF regarding forcefully drawing an LT single phase line from Post No: GTW 27 to GTW 27/1 (in the northern side of the appellant's property). The single phase two wire OH line drawn from Post No: GTW 27 to GTW 27/1 broke down on 1.02.2018 due to the falling of a tree on the line. On getting the information about the snapping of conductor the staff from Electrical Section Vaduthala reached the site on 1.02.2018 and replaced the All Aluminum Conductor with ACSR conductor. While repairing the line the

appellant tried to stop the work and the work has been carried out in the presence of the Councilor, Kochi Corporation, Mrs. Delina Pinheiro. The detail of work is entered in the Maintenance work register and also in the sunrise meeting register.

The Consumer Grievance Redressal Forum has visited the site and has verified the facts. From the post GTW 27/1 two service connections are given, one to the complainant Consumer No- 8588 and other to Mr. Rajan N with consumer No. 8584, both connections in domestic tariff. As alleged by the appellant there is no post bearing the number MR 12/7 near the appellant's property presently. Earlier the post numbers in this road were starting with MR and later all the posts under this Section were renamed based on the transformer names for safe operation and easy identification. This road is earlier fed from Market Road transformer and presently fed from Ganapathy Temple Road Transformer. Hence all the LT lines fed from Ganapathy Temple Road Transformer were renamed to GTW from MR. Also MR was changed to VM (Vaduthala Market) as the transformer is renamed as Vaduthala Market instead of Market Transformer.

As alleged by the appellant, no new OH line has been drawn. The existing overhead line was drawn many years back. Only work carried out on 1.02.2018 was rectifying the broken line through the same path.

The appellant has earlier filed PLA OP 30/2012 before the Permanent Lok Adalath for shifting the line drawn through the eastern side of his property. The Permanent Lok Adalath vide order dated 29.03.2012 dismissed the petition without prejudice to the appellant's right to approach the appropriate forum or Authority for redressal of his grievance.

The appellant again filed WPC 5889/2015 before the Honourable High Court of Kerala for directing the District Magistrate for considering his petition filed before the District Collector. The Honourable High Court vide judgment dated 24.02.2015 directed the District Magistrate to consider the application of the appellant after serving notice to the appellant and affected parties. As alleged by the appellant, no orders were issued by the Hon. High Court for shifting the line. The Additional District Magistrate vide order dated 10th of August 2015 dismissed the petition. Against this order of the District Collector the appellant filed WPC 18958/2016 and the Honourable High Court of Kerala vide order dated 20.6.2016 directed Additional District Magistrate to reconsider the matter and the shifting of line in the Eastern side of his property drawn above the drainage is presently under the consideration of Additional District Magistrate.

On verifying the records, no application fee is seen remitted at Vaduthala Section by the appellant for solar connection.

Analysis and findings:

The hearing of the case was conducted on 04-09-2018, in the Office of the State Electricity Ombudsman, Edappally, Kochi 24. The appellants' side was represented by Sri. Antony Jaison Jose and the respondent by Smt. Sunitha Jose, Assistant Executive Engineer, Electrical Sub Division, Central, Ernakulam and they have argued the case, mainly on the lines stated above. On examining the appeal petition and argument note filed by the appellant, the statement of facts and argument note of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings leading to the decisions thereof.

The appellant's grievance is that on 1/2/18, the KSEBL officials encroached his land, cut and removed the trees and plants in the land without his consent and drawn an electric line between the electric posts MR 12/7 and GTW 27 through the northern side of his property. But according to the respondent, the single phase two wire OH line drawn from Post No: GTW 27 to GTW 27/1 (MR 12/7) broke down on 1.02.2018 due to the falling of a tree on the line and only work carried out on 1.02.2018 was rectifying the broken line through the same path and no new OH line has been drawn.

This Authority has gone through the records and following observations are made. As per the versions of both appellant and respondent, no cases pending in any other legal forum pertains to the appeal subject of the present dispute.

Based on the sketch produced by the Assistant Executive Engineer, the following observations made with the concurrence of the appellant.

1. The service connection provided from pole 'B' 8584 and 8588 are old connections.
2. 'BC' portion of the line is "live" and 'BA' portion is "dead".
3. There is no case pending in any other Forum pertaining to 'ABC'.
4. As per the appellant there was no line from 'B' to 'C' and which was drawn recently.
5. Consumer Nos. 8584 and 8588 were fed from 'B' availing supply from 'A' to 'B'.
6. The request of the appellant is to remove the line from 'B' to 'C' and change the line from 'A' to 'B'.

7. As per the respondent a thick vegetation is there from 'A' to 'B' and can be changed after clearing it.
8. The appellant has no objection in removing the vegetation and touchings / trees in the route 'AB'.

Regulation 95 of Supply Code, 2014 deals with the procedure for shifting electric line or electrical plant of the licensee.

As per Regulation 95

(1) "the owner of the land or his successor in interest who has given right of way for the construction of an existing line or electrical plant over, under, along, across, in or upon the said land, may apply for shifting the electric line or electrical plant to any other portion of his land for genuine purposes.

(2) The application for shifting the electric line or electrical plant shall be submitted in the local office of the licensee.

(3) On receipt of the application the licensee shall inspect the site and assess the technical feasibility of the proposed shifting.

(4) The application for shifting an electric line or electrical plant shall be granted only if:

- a) The proposed shifting is technically feasible and
- b) The owner of the land or his successor in interest gives consent in writing to shift the electric line or electrical plant to any other portion of his land or to any other land owned by him or any alternate right of way along any public pathway available for shifting the electric line and the electrical plant and
- c) The appellant remits the labour charges required for shifting the electric line or electrical plant

(5) The licensee shall shift the electric line or electrical plant if the conditions specified in Sub Regulation (4) are complied with by the applicant.

Decision

From the findings and conclusions arrived at as detailed above, I decide as follows.

Whenever the dispute regarding the shifting of electric line through the eastern side of the property of the appellant before the District Magistrate is settled, the respondent shall consider the request for rearranging the line in

the northern side of the property subject to the technical feasibility for the shifting by realizing the labour charges.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the Consumer is allowed as ordered and stands disposed of as such. The order of CGRF in 137/2017-18 dated 26-06-2018 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/043/2018/_____ /Dated:_____

Delivered to:

1. Sri Joseph C.A., Cheethaparambil, Vaduthala P.O., Ernakulam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Central, Ernakulam

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.